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Crl.O.P.No.10220 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.10220 of 2021

Dinesh Dalmia

... Petitioner

Vs.

M/s.Indicool Innovations Private Limited,
Having their registered office at
No.8/65, Dhanabhagyam Street,
Krishnaveni Complex, Mangadu Main Road,
Paraniputtur, Chennai 600 122
Represented by their Director, Mano Krishnamurthy

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in respect of the complaint in STC.No.135 of 2019 on the file of the learned Fast Track Court Magistrate Level, Poonamallee and to quash the same as against the petitioner herein.

For Petitioner : Mr.Prakash Goklaney

For Respondent : Mr.P.Karthik,
Legal Aid Counsel

ORDER

This criminal original petition has been filed to quash the proceedings in STC.No.135 of 2019 on the file of the learned Fast Track Court Magistrate Level, Poonamallee as against the petitioner, taken cognizance for the offence under Section 138 of Negotiable Instruments Act.

2. Heard, the learned counsel appearing on either side.



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3. The respondent initiated proceedings under Section 138 r/w Section 141 of NI Act alleging that the accused persons placed orders for supply of 56 numbers of Indicool 328 litres glass topped chest freezer. Accordingly, the goods were supplied to the tune of Rs.13,25,184/-. In order to make part payment of the said amount, the accused issued a cheque for a sum of Rs.9,62,771/-. It was presented for collection and the same was returned for the reason 'insufficient funds'. After causing statutory notice, the respondent lodged complaint.

4. There are totally six accused, in which the petitioner is arrayed as the second accused. On perusal of complaint, revealed that the petitioner was shown as authorised representative of the first accused. He is neither a Director / Partner nor a signatory to the cheque. Further, he is not an employee of the first accused company. He is a stranger to the first accused company and he is no way connected with the first accused. Except in the long cause title, the respondent did not even whisper about the role played by the petitioner. Even assuming that he is one of the Directors or a partner, no role was played by him while either placing order or issuing the cheque. Further, the respondent has described the petitioner as an authorised representative of the first accused



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company, in support of which the respondent failed to produce any iota of evidence to show that the petitioner is an authorised representative of the first accused company. Therefore, the complaint cannot be sustained as against the petitioner and it is liable to be quashed.

5. Accordingly, the entire proceedings in STC.No.135 of 2019 on the file of the learned Fast Track Court Magistrate Level, Poonamallee is quashed as against the petitioner alone and this criminal original petition is allowed. The trial court is directed to proceed with the trial as against the other accused persons and complete the same within a period of six months from the date of receipt of copy of this order.

06.10.2023

Index :Yes/No
Internet : Yes/No
Speaking order/non-speaking order
lok

G.K.ILANTHIRAIYAN, J.



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- 1.The learned Fast Track Court Magistrate Level,
Poonamallee
- 2.Mano Krishnamurthy,
Director, M/s.Indicool Innovations Private Limited,
Having their registered office at
No.8/65, Dhanabhagyam Street,
Krishnaveni Complex, Mangadu Main Road,
Paraniputtur, Chennai 600 122

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